

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

Page 1 of 2

DOCKET NO.: 2008-0178-WQ-E TCEQ ID: RN100720218 CASE NO.: 35321

RESPONDENT NAME: MASTER MEDICAL EQUIPMENT, INC. DBA THE LIVING STONE

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: 201 East Young Street, Llano, Llano County</p> <p>TYPE OF OPERATION: Stone yard</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on August 24, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST:</p> <p>TCEQ Attorney: Ms. Tammy L. Mitchell, Litigation Division, MC 175, (512) 239-0736 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019</p> <p>TCEQ Enforcement Coordinator: Mr. Harvey Wilson, Water Enforcement Section, MC 149, (512) 239-0321</p> <p>TCEQ Regional Contact: Ms. Carolyn Runyon, Austin Regional Office, MC R-11, (512) 339-2929</p> <p>Respondent: Mr. Larry Masters, President and Director, Master Medical Equipment, Inc. dba The Living Stone, 201 East Young Street, Llano, Texas 78643</p> <p>Respondent's Attorney: Mr. Zachary P. Hudler, Zachary P. Hudler, P.C., P.O. Box 1728, Johnson City, Texas 78636</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint</p> <p><input type="checkbox"/> Routine</p> <p><input type="checkbox"/> Enforcement Follow-up</p> <p><input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: December 5, 2007</p> <p>Date of NOE Relating to this Case: December 7, 2007</p> <p>Background Facts: The EDPRP was filed on October 3, 2008. The Respondent filed an answer and the case was referred to SOAH. The preliminary hearing was waived and parties engaged in discovery. The evidentiary hearing was set for June 4, 2009. The agreed order was signed on June 3, 2009.</p> <p>Current Compliance Status: Not in compliance.</p> <p>WQ: Failed to obtain authorization to discharge storm water associated with industrial activities to waters in the State [30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CFR § 122.26(c)].</p>	<p>Total Assessed: \$2,100</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Order</p> <p><input type="checkbox"/> Financial Inability to Pay</p> <p><input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid/Due to General Revenue: \$186/\$1,914</p> <p>The Respondent paid \$186 of the administrative penalty. The remaining \$1,914 shall be payable in 11 payments of \$174 each.</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions: The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Within 30 days: <ol style="list-style-type: none"> Develop and implement a storm water pollution prevention plan, in accordance with the requirements of TPDES General Permit TXR050000; and Submit an administratively complete Notice of Intent for authorization to discharge under TPDES General Permit TXR050000. Within 45 days, submit written certification demonstrating compliance.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision November 6, 2007

TCEQ

DATES	Assigned	28-Jan-2008	Screening	29-Jan-2008	EPA Due	
	PCW	13-May-2008				

RESPONDENT/FACILITY INFORMATION

Respondent	Master Medical Equipment, Inc. dba The Living Stone		
Reg. Ent. Ref. No.	RN100720218		
Facility/Site Region	11-Austin	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	35321	No. of Violations	1
Docket No.	2008-0178-WQ-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Harvey Wilson
Multi-Media		EC's Team	Enforcement Team 3
Admin. Penalty \$	Limit Minimum	\$0	Maximum
		\$10,000	

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 **\$2,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 5% Enhancement Subtotals 2, 3, & 7 **\$100**

Notes A 5% enhancement is recommended because the Respondent received a NOV dated November 20, 2006 for the same violation.

Culpability No 0% Enhancement Subtotal 4 **\$0**

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0% Reduction Subtotal 5 **\$0**

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes The Respondent does not meet the good faith criteria.

Total EB Amounts \$41
Approx. Cost of Compliance \$1,000
0% Enhancement* Subtotal 6 **\$0**
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal **\$2,100**

OTHER FACTORS AS JUSTICE MAY REQUIRE 0% Adjustment **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$2,100**

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty **\$2,100**

DEFERRAL Reduction Adjustment

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral offered for non-expedited case.

PAYABLE PENALTY **\$2,100**

Screening Date 29-Jan-2008

Docket No. 2008-0178-WQ-E

PCW

Respondent Master Medical Equipment, Inc. dba The Living Stone

Policy Revision 2 (September 2002)

Case ID No. 35321

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN100720218

Media [Statute] Water Quality

Enf. Coordinator Harvey Wilson

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

A 5% enhancement is recommended because the Respondent received a NOV dated November 20, 2006 for the same violation.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 29-Jan-2008		Docket No. 2008-0178-WQ-E		PCW																				
Respondent Master Medical Equipment, Inc. dba The Living Stone																								
Case ID No. 35321																								
<i>Policy Revision 2 (September 2002)</i> <i>PCW Revision November 6, 2007</i>																								
Reg. Ent. Reference No. RN100720218																								
Media [Statute] Water Quality																								
Enf. Coordinator Harvey Wilson																								
Violation Number		<div style="border: 1px solid black; width: 100px; text-align: center;">1</div>																						
Rule Cite(s)		<div style="border: 1px solid black; padding: 5px;">30 Tex. Admin. Code § 281.25(a)(4) and 40 Code of Federal Regulations § 122.26[c]</div>																						
Violation Description		<div style="border: 1px solid black; padding: 5px;">Failed to obtain authorization to discharge storm water associated with industrial activities to waters in the State. Specifically, the Respondent was operating without a Texas Pollutant Discharge Elimination System ("TPDES") Multi-Sector General Permit at the time of the December 5, 2007 investigation.</div>																						
Base Penalty					<div style="border: 1px solid black; width: 100px; text-align: right;">\$10,000</div>																			
>> Environmental, Property and Human Health Matrix																								
OR	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td colspan="3" style="text-align: center;">Harm</td> <td></td> </tr> <tr> <td style="text-align: center;">Release</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td></td> </tr> <tr> <td style="text-align: center;">Actual</td> <td><div style="border: 1px solid black; width: 50px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 50px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 50px; height: 15px;"></div></td> <td rowspan="2" style="vertical-align: middle; text-align: center;">Percent <div style="border: 1px solid black; width: 50px; text-align: right;">0%</div></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td><div style="border: 1px solid black; width: 50px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 50px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 50px; height: 15px;"></div></td> </tr> </table>						Harm				Release	Major	Moderate	Minor		Actual	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	Percent <div style="border: 1px solid black; width: 50px; text-align: right;">0%</div>	Potential	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>
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Potential	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>																					
>> Programmatic Matrix																								
Matrix Notes	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td colspan="3" style="text-align: center;">Harm</td> <td></td> </tr> <tr> <td style="text-align: center;">Falsification</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td></td> </tr> <tr> <td><div style="border: 1px solid black; width: 50px; height: 15px; text-align: center;">x</div></td> <td><div style="border: 1px solid black; width: 50px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 50px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 50px; height: 15px;"></div></td> <td rowspan="2" style="vertical-align: middle; text-align: center;">Percent <div style="border: 1px solid black; width: 50px; text-align: right;">10%</div></td> </tr> </table>						Harm				Falsification	Major	Moderate	Minor		<div style="border: 1px solid black; width: 50px; height: 15px; text-align: center;">x</div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	Percent <div style="border: 1px solid black; width: 50px; text-align: right;">10%</div>				
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100% of the rule requirement was not met.																								
Adjustment					<div style="border: 1px solid black; width: 100px; text-align: right;">\$9,000</div>																			
					<div style="border: 1px solid black; width: 100px; text-align: right;">\$1,000</div>																			
Violation Events																								
Number of Violation Events		<div style="border: 1px solid black; width: 50px; text-align: center;">2</div>	Number of violation days																					
mark only one with an x		<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td style="text-align: center;">daily</td><td><div style="border: 1px solid black; width: 50px; height: 15px;"></div></td></tr> <tr><td style="text-align: center;">monthly</td><td><div style="border: 1px solid black; width: 50px; height: 15px; text-align: center;">x</div></td></tr> <tr><td style="text-align: center;">quarterly</td><td><div style="border: 1px solid black; width: 50px; height: 15px;"></div></td></tr> <tr><td style="text-align: center;">semiannual</td><td><div style="border: 1px solid black; width: 50px; height: 15px;"></div></td></tr> <tr><td style="text-align: center;">annual</td><td><div style="border: 1px solid black; width: 50px; height: 15px;"></div></td></tr> <tr><td style="text-align: center;">single event</td><td><div style="border: 1px solid black; width: 50px; height: 15px;"></div></td></tr> </table>			daily	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	monthly	<div style="border: 1px solid black; width: 50px; height: 15px; text-align: center;">x</div>	quarterly	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	semiannual	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	annual	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	single event	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	Violation Base Penalty		<div style="border: 1px solid black; width: 100px; text-align: right;">\$2,000</div>					
daily	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>																							
monthly	<div style="border: 1px solid black; width: 50px; height: 15px; text-align: center;">x</div>																							
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single event	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>																							
Two monthly events are recommended from the date of the investigation (December 5, 2007) until the screening date (January 29, 2008).																								
Economic Benefit (EB) for this violation			Statutory Limit Test																					
Estimated EB Amount		<div style="border: 1px solid black; width: 100px; text-align: right;">\$41</div>	Violation Final Penalty Total		<div style="border: 1px solid black; width: 100px; text-align: right;">\$2,100</div>																			
This violation Final Assessed Penalty (adjusted for limits)					<div style="border: 1px solid black; width: 100px; text-align: right;">\$2,100</div>																			

Economic Benefit Worksheet

Respondent Master Medical Equipment, Inc. dba The Living Stone

Case ID No. 35321

Reg. Ent. Reference No. RN100720218

Media Water Quality

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	\$0	\$0
Record Keeping System				0.0	\$0	\$0	\$0
Training/Sampling				0.0	\$0	\$0	\$0
Remediation/Disposal				0.0	\$0	\$0	\$0
Permit Costs	\$1,000	5-Dec-2007	30-Sep-2008	0.8	\$41	\$0	\$41
Other (as needed)				0.0	\$0	\$0	\$0

Notes for DELAYED costs

The estimated cost of preparing a Storm Water Pollution Prevention Plan and preparing and submitting the Notice of Intent. Date Required is the date the violation was documented. Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$41

Compliance History

Customer/Respondent/Owner-Operator: CN600408157 Master Medical Equipment, Inc. Classification: AVERAGE Rating: 2.50
Regulated Entity: RN100720218 THE LIVING STONE Classification: AVERAGE Site Rating: 2.50
ID Number(s): AIR NEW SOURCE PERMITS ACCOUNT NUMBER LL0044G
Location: 201 E YOUNG ST, LLANO, TX, 78643 Rating Date: 9/1/2007
Repeat Violator: NO

TCEQ Region: REGION 11 - AUSTIN
Date Compliance History Prepared: January 29, 2008
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: January 29, 2003 to January 29, 2008
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Harvey Wilson Phone: 239-0321

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A

B. Any criminal convictions of the state of Texas and the federal government.
N/A

C. Chronic excessive emissions events.
N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 11/20/2006 (513787)
2 12/10/2007 (593752)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
Date: 11/20/2006 (513787)
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)
Description: Failure to obtain coverage under the Texas Pollutant Discharge Elimination System (TPDES) Multi-Sector General Permit (MSGP).

F. Environmental audits.
N/A

G. Type of environmental management systems (EMSs).
N/A

H. Voluntary on-site compliance assessment dates.
N/A

I. Participation in a voluntary pollution reduction program.
N/A

J. Early compliance.
N/A

Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF
AN ENFORCEMENT ACTION
AGAINST MASTER MEDICAL
EQUIPMENT, INC. DBA THE
LIVING STONE;
RN100720218

§
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§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2008-0178-WQ-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Master Medical Equipment, Inc. dba The Living Stone ("Master Medical Equipment") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Master Medical Equipment, represented by Zachary P. Hudler of the law firm of Zachary P. Hudler, appear before the Commission and together stipulate that:

1. Master Medical Equipment owns and operates a stone yard at 201 East Young Street, Llano, Llano County, Texas (the "Site").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and TCEQ rules.
3. The Commission and Master Medical Equipment agree that the Commission has jurisdiction to enter this Agreed Order, and that Master Medical Equipment is subject to the Commission's jurisdiction.
4. Master Medical Equipment received notice of the violations alleged in Section II ("Allegations") on or about December 12, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Master Medical Equipment of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of two thousand one hundred dollars (\$2,100.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Master Medical Equipment paid one hundred eighty-six dollars (\$186.00) of the administrative penalty. The remaining amount of one thousand nine hundred fourteen dollars (\$1,914.00) of the administrative penalty shall be payable in 11 monthly payments of one hundred seventy four dollars (\$174.00) each, pursuant to 30 TEX. ADMIN. CODE § 70.9(a). The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Master Medical Equipment fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Master Medical Equipment's failure to meet the payment schedule of this Agreed Order constitutes the failure by Master Medical Equipment to timely and satisfactorily comply with all of the terms of this Agreed Order
7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Master Medical Equipment agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Master Medical Equipment has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

During an investigation conducted on December 5, 2007, a TCEQ Austin Regional Office investigator documented that Master Medical Equipment violated 30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CFR § 122.26(c) by failing to obtain authorization to discharge storm water associated with industrial activities to waters in the State. Specifically, Master Medical

Equipment was operating without a Texas Pollutant Discharge Elimination System ("TDPES) Multi-Sector General Permit.

III. DENIALS

Master Medical Equipment generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Master Medical Equipment pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Master Medical Equipment's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Master Medical Equipment, Inc. dba The Living Stone, Docket No. 2008-0178-WQ-E to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. Master Medical Equipment shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, Master Medical Equipment shall:
 - i. Develop and implement a storm water pollution prevention plan, in accordance with the requirements of TPDES General Permit TXR050000; and
 - ii. Submit an administratively complete Notice of Intent for authorization to discharge under TPDES General Permit TXR050000 to:

Texas Commission on Environmental Quality
Storm Water & General Permits Team, MC 228
P. O. Box 13087
Austin, TX 78711-3087

- b. Within 45 days after the effective date of this Agreed Order, Master Medical Equipment shall submit written certification and detailed supporting documentation, including photographs, receipts, and/or other records, to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Master Medical Equipment shall submit the written certification and copies of documentation necessary to demonstrate compliance with these Ordering Provisions to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Carolyn Runyon, Water Section Manager
Texas Commission on Environmental Quality
Austin Regional Office
2800 S IH 35, Suite 100
Austin, TX 78704-5700

3. The provisions of this Agreed Order shall apply to and be binding upon Master Medical Equipment. Master Medical Equipment is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.

4. If Master Medical Equipment fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Master Medical Equipment's failure to comply is not a violation of this Agreed Order. Master Medical Equipment shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Master Medical Equipment shall notify the Executive Director within seven days after Master Medical Equipment becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Master Medical Equipment shall be made in writing to the Executive Director. Extensions are not effective until Master Medical Equipment receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Master Medical Equipment in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Master Medical Equipment, or three days after the date on which the Commission mails notice of the Order to Master Medical Equipment, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

8/4/2009

Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on Master Medical Equipment's compliance history;
- Greater scrutiny of any permit applications submitted by Master Medical Equipment;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against Master Medical Equipment;
- Automatic referral to the Attorney General's Office of any future enforcement actions against Master Medical Equipment; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

6/3/09

Date

Larry H. Masters
Authorized representative of
Master Medical Equipment, Inc. dba The Living Stone

President and Director